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Attorneys for Petitioner EDAG Engineering GmbH,  
a corporation organized and existing under the laws  
of the Republic of Germany

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

EDAG Engineering GmbH,

Case No. 3:21-cv-04736-EMC

Petitioner,

V.

BYTON North America Corporation,

**Respondent.**

**DECLARATION OF DAVID J. COOK ESQ., IN SUPPORT OF EX PARTE APPLICATION FOR ISSUANCE OF THE FOLLOWING: (A) TURNOVER OF INTELLECTUAL PROPERTY OF BYTON NORTH AMERICA CORP. ("BNA") to the U.S. MARSHAL ED CA ("MARSHAL") PURSUANT TO C.C.P. SECTION 699.040(a)&(b); (B) APPOINT A RECEIVER AS SURROGATE FOR BNA TO DIRECT JAMA SOFTWARE AS CUSTODIAN OF BNA IP TO TURNOVER TO THE MARSHAL, AND SALE BY MARSHAL PURSUANT TO C.C.P. SECTION 701.520(b).**

Date: January 6, 2022

Time: 1:30 pm

Location: via Judge Chen's

## Videoconferenc

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Petition Filed: June 23, 2021

1 I, DAVID J. COOK, hereby declare and state as follows:

2 1. I am one of the attorneys of record for Petitioner in the above-entitled action, am duly  
3 authorized to practice before all courts in the State of California, and am familiar with the facts and  
4 circumstances in this action

5 2. Submitted for filing as ***Exhibit "A"*** is a copy of the Declaration of Daniel I. Kirchert,  
6 previously submitted in the case entitled ***Hanon Systems vs. Byton***, pending in the United States  
7 District Court ND CA, Case # 20-cv-01983-YGR (Doc. #22-1). The Declaration is a true and  
8 authentic copy and marked ***Exhibit "A"*** and is hereby attached and is incorporated within.

9 3. EDAG has obtained a Writ of Execution from the USDC ND CA. A copy of the Writ  
10 is hereby attached as ***Exhibit "B"*** and is incorporated within.

11 4. Submitted for filing as ***Exhibit "C"*** is an excel spreadsheet with data from the  
12 Small Business Administration (SBA). The spreadsheet contains information relating to Byton  
13 North America Corporation's Paycheck Protection Program (PPP) Loan. A true and authentic copy,  
14 marked as ***Exhibit "C"*** is hereby attached and incorporated within.

15 5. Submitted for filing as ***Exhibit "D "*** is the transcript from the Deposition of Byton North  
16 America Corporation's Most Qualified Witness, Sadha Kameswaran. The transcript is a true and  
17 authentic copy, marked as ***Exhibit "D"*** and is herby attached and incorporated within.

18 6. On December 20, 2021, David J. Cook Esq., informed Keith Sippelle, Esq., Vincent  
19 Lester, Esq., Byton LTD, and Zhang Ying by email to take notice that EDAG will file an Ex Parte  
Application for issuance of a Turnover Order pursuant to C.C.P. Section 699.40(a)&(b) and Section  
699.070(a). A true and authentic copy of the email is hereby attached as ***Exhibit "E1"and "E2"*** and  
are incorporated within.

20  
21 I declare under penalty of perjury under the laws of the United States that the foregoing is  
22 true and correct. Executed on this 20th day of December, 2021 at San Francisco, California.

23 \_\_\_\_\_ /s/ David J. Cook

24 DAVID J. COOK, ESQ. (SB# 06859)